IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 5247 of 2007(Y)

PETITIONER:

MOHAMMED SIDDIQUE, PROPRIETOR,
M/S. MOIDU HOTEL, S.N.JUNCTION, PALARIVATTOM.

BY ADV. SRI.N.D.PREMACHANDRAN
SRI.D.AJITHKUMAR
SMT.A.K.SAJITHA

RESPONDENTS:
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1. THE KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.

2. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
PALARIVATTOM, KOCHI-25.

3. THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,ELECTRICAL CIRCLE,
POWER HOUSE ROAD, ERNAKULAM, KOCHI-18.

BY ADV. SRI. P. P. THAJUDEEN SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5247/2007 Y

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE MAHAZAR DT. 6/4/06.

EXT.P2. COPY OF THE BILL DT. 6/4/06.

EXT.P3. COPY OF THE BILL DT. 6/4/06.

EXT.P4. COPY OF THE PROVISIONAL ASSESSMENT ORDER DT. 6/4/06.

EXT.P5. COPY OF THE APPEAL FILED BEFORE THE R3 DT. 29/09/06.

EXT.P6. COPY OF THE RECEIPTS DT. 7/4/06.

EXT.P7. COPY OF THE RECEIPTS DT. 7/4/06.

EXT.P8. COPY OF THE CERTIFICATE BY THE SALES TAX OFFICER DT. 11/08/04.

EXT.P9. COPY OF THE ABOVE APPLICATION DTD. 25/4/06.

EXT.P10. COPY OF THE BILL DT. 6/5/06.

EXT.P11. COPY OF THE BILL DT. 6/7/06.

EXT.P12. COPY OF THE BILL DT. 2/09/06.

EXT.P13. COPY OF THE DTD. 6/1/2007.

EXT.P14. COPY OF THE BILL DT. 15/5/06.

EXT.P15. COPY OF THE BILL DT. 12/6/04.

EXT.P16. COPY OF THE BILL DT. 12/7/06.

EXT.P17. COPY OF THE BILL DT. 11/08/06.

EXT.P18. COPY OF THE BILL DT. 12/09/06.

EXT.P19. COPY OF THE BILL DT. 12/10/06.

EXT.P20. COPY OF THE BILL DT. 13/11/06.

EXT.P21. COPY OF THE BILL DT. 12/12/06.

EXT.P22. COPY OF THE BILL DT. 12/1/07.

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EXT.P23. COPY OF THE BILL DT. 6/9/05.

EXT.P24. COPY OF THE BILL DT. 8/11/2005.

EXT.P25. COPY OF THE BILL DT. 6/1/2006.

EXT.P26. COPY OF THE BILL DT. 6/3/06.

EXT.P27. COPY OF THE ORDER DT. 4/12/06.

EXT.P28. COPY OF THE ASSESSMENT ORDER NO. BB/06-07/APTS 424/3/12/07.

EXT.P29. COPY OF THE BILL DT. 2/2/07.

EXT.P30. COPY OF THE BILL DT. 2/2/07.

RESPONDENT'S EXHIBITS NIL.

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.5247 OF 2007

Dated this the 4th day of October, 2007

JUDGMENT

The petitioner has two electrical energy consuming points. He has been alloted two consumer numbers with commercial tariff. The APTS inspection showed that there were tampering of the meters. That is not a fact in dispute, either before the statutory authorities or in this writ petition. The plea is only that the tenants would have tampered the meters. Leaving that question, the appellate authority in issuing Ext.P27 has concluded that bi-monthly consumption arrived at by applying the relevant diversity factor is not much at a variance from the consumption recorded after the meters were replaced. It is not disputed that the bi-monthly bill issued in November, 2006 reflects the consumption as stated in Ext.P27. The appellate authority had reduced the diversity factor from that which was applied by the original authority. It was also not in dispute that the connected load exceeded the sanctioned load. The details of

the mahazar, which are reflected in Ext.P27, are essentially questions of facts.

2. The appellate authority competent in that regard has concluded, stating reasons, that the consumer writ petitioner has to pay the amounts as would be revised in terms of Ext.P27. I do not find any jurisdictional error or legal infirmity in the impugned decision. The writ petition fails.

Following the interim order dated 15.2.2007, the petitioner has remitted 50% of the outstandings. Under such circumstances, while affirming the impugned decision, this writ petition is disposed of directing that if the petitioner remits the remaining outstandings in terms of Ext.P27 and all accruals thereon in five equal monthly instalments, payable on or before the 20th of every month commencing from October, 2007, all coercive steps for enforcement of such demand would stand dropped. If there is default in remitting any of the instalments as aforesaid, the benefit of this judgment would stand recalled

automatically and the respondents will be entitled to forthwith proceed with distress action in terms of law.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.